

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)
)
Review of the Spectrum Sharing Plan Among)
Non-Geostationary Satellite Orbit Mobile Satellite) IB Docket No. 02-364
Service Systems in the 1.6/2.4 GHz Bands)
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ORDER

Adopted: July 8, 2003

Released: July 9, 2003

Comment Date: July 11, 2003
Reply Comment Date: July 25, 2003

By the Chief, International Bureau, Policy Division:

I. INTRODUCTION

1. In this Order, we deny a request to extend the deadline by two months for filing comments in the above-captioned proceeding. Nevertheless, because of the operation of Section 1.46 of the Commission's rules,¹ which automatically extends the time for filing comments until two business days after the Commission denies a timely-filed motion for extension of time, we adjust the comment date and reply comment date to provide clarity to the parties. Comments are due to the Commission on July 11, 2003. Reply comments are due on July 25, 2003.

II. BACKGROUND

2. On June 30, 2003, Globalstar L.P. (GLP or Globalstar), pursuant to Section 1.46 of the Commission's rules, filed a "Request for Extension of Time" (GLP Request) requesting the Commission to extend the comment and reply comment filing deadlines in this proceeding for two months to September 8, 2003, and September 29, 2003, respectively.² ICO Global Communications (Holdings) Limited (ICO) and The Official Creditors' Committee of Globalstar, L.P. (the Creditors) each filed documents in support of GLP's request.³ Iridium Satellite LLC (Iridium) filed in opposition to GLP's

¹ 47 C.F.R. § 1.46.

² GLP Request for Extension of Time, IB Docket 02-364 (filed June 30, 2003).

³ ICO Request for Extension of Time, IB Docket 02-364 (filed July 2, 2003) (ICO Comments); Committee Comments in Support of Request for Extension of Time, IB Docket 02-364 (filed July 2, 2003) (Committee Comments).

request.⁴

3. GLP asserts that two events have occurred since release of the *NPRM* in this proceeding⁵ that warrant grant of an extension of time.⁶ First, GLP states that it has filed an emergency application for review and request for stay of an International Bureau order canceling GLP's 2 GHz MSS license.⁷ According to GLP, a Commission decision regarding whether to revise the Big LEO band plan and to assign more or less spectrum to Globalstar and Iridium or to reallocate some Big LEO spectrum to another service must necessarily be affected by the amount of second generation spectrum, if any, that is available to GLP in the 2 GHz MSS band.⁸ Second, GLP states that the U.S. Bankruptcy Court for the District of Delaware has approved an investment transaction pursuant to which GLP's assets will be transferred to a company controlled by ICO.⁹ According to GLP, ICO's interests as the proposed new owner of the Globalstar system cannot be taken into account in this proceeding until the applications for the assignment of the Globalstar assets have been approved by the Commission.¹⁰ Finally, GLP requests an additional week for filing reply comments.¹¹ According to GLP additional time for filing reply comments is warranted in light of the substantial technical information expected to be filed in response to the *NPRM*.¹²

4. In support of GLP's request, ICO reiterates most of GLP's arguments.¹³ ICO adds that it cannot participate meaningfully in the *NPRM* and that its interests cannot be taken into account until the assignment of Globalstar's assets has been approved by the Commission.¹⁴ ICO also asserts that it would be imprudent for the Commission to take action that could affect the value of Globalstar's assets in bankruptcy now that the Court is actively considering a plan for Globalstar's emergence from bankruptcy.¹⁵ The Creditors assert that an extension of time is warranted because the same Globalstar personnel who are responsible for preparing Globalstar's comments and reply comments in this proceeding have been involved in the ongoing bankruptcy proceeding and in evaluating Iridium's special temporary operations in the Middle East on spectrum currently assigned to Globalstar.¹⁶ The Creditors also assert that ICO will not have access to information regarding subscriber load and technical and system performance characteristics of Globalstar's Big LEO MSS system so as to make a reasonable assessment of possible degradation and interference issues raised by the sharing and reallocation

⁴ Iridium Opposition to Request for Extension of Time, IB Docket 02-364 (filed July 2, 2003) (Iridium Opposition).

⁵ *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands*, Report and Order and Notice of Proposed Rulemaking, FCC 03-15, 18 FCC Rcd 1962 (2003) (*NPRM*).

⁶ GLP Request at 1.

⁷ GLP Request at 2.

⁸ GLP Request at 2.

⁹ GLP Request at 3.

¹⁰ GLP Request at 3.

¹¹ GLP Request at 3.

¹² GLP Request at 3.

¹³ ICO Comments at 1-4.

¹⁴ ICO Comments at 4.

¹⁵ ICO Comments at 4.

¹⁶ Creditors Comments at 2.

proposals, and therefore that an extension of time is necessary to permit ICO to fully participate.¹⁷

5. Iridium opposes GLP's request. Iridium states that extending the comment deadline would directly contravene the Commission's express intention to proceed expeditiously in this rulemaking proceeding.¹⁸ Iridium asserts that GLP has known of the *NPRM* and the need to prepare responsive comments since February 10, 2003.¹⁹ Iridium also argues that GLP's grounds for extending the date for comments—the Commission's pending review of the International Bureau's revocation of Globalstar's 2 GHz MSS licenses and Globalstar's applications to transfer or assign various assets and FCC licenses to ICO—were well known to Globalstar more than two months prior to this request, allowing ample time for Globalstar to address them in its comments.²⁰ Iridium asserts that both the outcome of Globalstar's pending appeal and ownership structure changes are uncertain events and that it is not certain the Commission will resolve these matters in the time extension GLP has requested.²¹ Iridium also asserts that both of these cited reasons for the extension request are the direct result of business decisions wholly within Globalstar's control.²²

III. DISCUSSION

6. Extensions of time in which to make filings in proceedings are not routinely granted, and we find that the public interest does not weigh in favor of a grant here.²³ Rather, we find that extending the comment deadline would contravene the Commission's express intention to proceed expeditiously in this rulemaking proceeding. In the *NPRM*, the Commission tentatively concluded that a rebalancing of the Big LEO band will serve the public interest and stated that it intended to proceed expeditiously on considering the appropriate amount of spectrum that each Big LEO MSS licensee should receive.²⁴ To ensure that the Commission could act expeditiously, the Commission shortened the normal comment cycle.²⁵ None of the conditions identified by GLP, ICO, or the Creditors are sufficiently related to the issues raised in this proceeding to justify delay.

7. First, we do not agree that a Commission decision regarding whether to revise the Big LEO band plan must necessarily be affected by the amount of second generation spectrum available to GLP in the 2 GHz MSS band. We expect any decision the Commission may make regarding whether to revise the Big LEO band plan will be made based on the operations and use of systems in the Big LEO band. We do not believe that resolution of 2 GHz MSS licensing matters will have any bearing on whether or how the Commission may decide to alter the Big LEO band plan. In any event, it is not necessary for the Commission to reach a decision on GLP's appeal for parties to provide comments in this proceeding concerning how favorable or unfavorable Commission action with respect to GLP's appeal might affect GLP's spectrum needs in the Big LEO band.

8. Second, we do not agree that a Commission decision regarding the proposed ICO/GLP transaction is necessary for parties to comment meaningfully in this proceeding. Whether or not the

¹⁷ Creditors Comments at 2.

¹⁸ Iridium Opposition at 2.

¹⁹ Iridium Opposition at 2.

²⁰ Iridium Opposition at 2-3.

²¹ Iridium Opposition at 3.

²² Iridium Opposition at 4-5.

²³ 47 C.F.R. § 1.46(a).

²⁴ *NPRM*, 18 FCC Rcd at 2089, ¶ 266.

²⁵ *NPRM*, 18 FCC Rcd at 2089, ¶ 266.

Commission ultimately approves the transaction has no bearing on current operations, use, or capacity of the Globalstar Big LEO MSS system. Moreover, nothing prohibits ICO, as proposed new owners of the Globalstar Big LEO MSS system, from filing comments in this proceeding. We are not convinced that ICO requires resolution of its pending transfer and assignment applications to understand its interests and comment meaningfully in this proceeding. To the extent ICO may require subscriber or technical information about the Globalstar system in order to prepare comments, we expect it is in GLP's interest to provide such information to ICO.

9. Third, we do not find persuasive the argument that the Commission should not take action that could affect the value of Globalstar's assets in bankruptcy now that the Court is actively considering a plan for Globalstar's emergence from bankruptcy. We note that this argument is directed to the merits, and is not related to whether or not the Commission should grant an extension of time in which to file comments. Moreover as ICO noted in its own pleading, ICO knew that the Commission had initiated a rulemaking to consider adjusting the Big LEO band plan at the time it sought to purchase the Globalstar assets. We can only assume ICO's offer was adjusted to account for the possibility the Commission may modify the Big LEO band plan. Accordingly we do not believe that continuing expeditiously with this proceeding will affect the value of GLP's assets in bankruptcy.

10. Finally, we are not convinced that the staffing issues raised by the Creditors justify delaying this proceeding. While we remain sensitive to providing reasonable time for parties to prepare comments in proceedings before the Commission, in this case we note that GLP has been on notice since February of this year that comments would be required in this proceeding. We believe time has been more than adequate for GLP to prepare comments. Nevertheless, because of the operation of Section 1.46 of the Commission's rules,²⁶ which automatically extends the time for filing comments until two business days after the Commission denies a timely-filed motion for extension of time, we adjust the comment date to July 11, 2003. Also, to provide parties a full two weeks to respond to comments filed in this proceeding, we adjust the reply comment date to July 25, 2003.

11. IT IS HEREBY ORDERED that pursuant to Section 1.46 of the Commission's Rules, 47 C.F.R. § 1.46, the request of Globalstar L.P. is DENIED.

12. IT IS FURTHER ORDERED that the deadline for filing comments in this proceeding IS EXTENDED to July 11, 2003.

13. IT IS FURTHER ORDERED that the deadline for filing reply comments in this proceeding IS EXTENDED to July 25, 2003.

²⁶ 47 C.F.R. § 1.46.

This action is taken under delegated authority pursuant to Sections 0.51 and 0.261 of the Commission's Rules, 47 C.F.R. . §§ 0.51, 0.261.

FEDERAL COMMUNICATIONS COMMISSION

James Ball
Chief, Policy Division
International Bureau